IN THE HIGH COURT OF JUDICATURE FOR

RAJASTHAN AT JODHPUR

...

:: JUDGMENT ::

(1) Rajasthan State Road Transport Corporation and another Vs. Smt.Shakuntala Priya and others

S.B.CIVIL MISC. APPEAL NO.317/1996.

(2) Smt.Shakuntala Priya and others Vs. Rajasthan State Road Transport Corporation and others

S.B.CIVIL MISC. APPEAL NO.140/1996.

Against the composite award dated 23.11.1995 made by the Motor Accidents Claims Tribunal, Bhilwara in MAC Case Nos.677/1992 and 720/1992.

Date of Judgment :: 12th April 2006

PRESENT

HON'BLE MR.JUSTICE DINESH MAHESHWARI

Mr.L.S.Jodha for Mr.B.S.Bhati, for the appellants in CMA No.317/1996 (respondent No.1 in CMA No.140/1996).
Mr.Anuj Sahlot for Mr.Mridul Jain, for the appellants in CMA No.140/1996 (respondents No.1 to 3 in CMA No.317/1996).
Mr.Yashwant Mehta, for the respondent No.6 in CMA No. 317/1996.
Mr.Sanjeev Johari and Ms. Meenakshi Maheshwari, for the respondent No.3 in CMA No.140/1996.
Mr.Rajendra Charan, for the respondent No.4 in CMA No. 317/1996.

BY THE COURT:

These two appeals have been submitted against the composite award dated 23.11.1995 made by the Motor Accidents Claims Tribunal, Bhilwara in MAC Case Nos.677/1992 and 720/1992 relating to the same accident. The non-applicants, Rajasthan State Road Transport Corporation (`the Corporation' for short) and its Chief Manager have submitted CMA No.317/1996 challenging the award essentially on the ground that the Corporation was not the registered owner of the vehicle in question that was employed by the Corporation under an agreement with the registered owner and the liability for compensation remains that of the owner of the vehicle and not of the Corporation. The appellant-Corporation has also challenged the correctness of the findings of rash and negligent driving of the bus and so also the quantum of compensation as highly excessive. On the other hand, the claimants of claim case No.677/1992 have submitted CMA No.140/1996, seeking enhancement of the amount of compensation.

Brief facts relevant for determination of the questions involved in these appeals are that the deceased

Prakash Chandra Priya was travelling in a bus bearing registration No. RJ 14A 0425; and in the night intervening 29/30.07.1991 at about 1:45 a.m., near Gulabpura on Bhilwara-Ajmer road, the bus rammed into a truck bearing registration No. HYT 2697. Prakash Chandra sustained injuries and died during treatment. Narrating the facts relating to the accident, two claim applications were submitted by the dependents of Prakash Chandra. Claim Application No.677/1992 was submitted by the wife and minor children of the deceased and for the quantum of compensation, it was alleged that the deceased was 32 years of age and was employed with the Corporation as bus conductor and was earning about Rs.1700/- per month. The claimants asserted the loss of contribution for 26 years at Rs.1500/- per month and for further 12 years at Rs.1000/- per month and thereby, pecuniary loss was stated at Rs.6,12,000/-; and with further claim of Rs.12,000/- towards funeral and other expenses and Rs.1,25,000/- towards non-pecuniary losses, claimed an amount of Rs.7,50,000/- arraying the appellant-Corporation and so also the registered owner of the bus RJ 14A 0425 and the United Insurance Company as the non-applicants while stating that the name of bus driver shall be mentioned when ascertained. Other Claim Application

No.720/1992 was submitted by the mother of the deceased Prakash Chandra joining the owner, driver and insurer of the bus apart from the Chief Manager of the Corporation and so also the three claimants of Claim Application No.677/1992 as the non-applicants. This claimant, mother of the deceased Prakash Chandra, submitted that the deceased would have earned Rs.3,000/- per month and would have spent Rs.2,000/- on the applicant and non-applicants No.5, 6 and 7 (i.e. the claimants of case No.677/1992) and claimed Rs.6,72,000/- towards pecuniary loss and another Rs.6,28,000/- towards non-pecuniary losses. It appears that only the non-applicants No.3 and 4, i.e. United India Insurance Company and the Chief Manager of the Corporation, Dungarpur Depot were served in Claim Application No.720/1992 and a reply was submitted on behalf of the insurer wherein a prayer was made for consolidating the said case No.720/1992 with case No.677/1992, and this prayer was granted on 18.10.1993; and thereafter, all the proceedings were taken in case No.677/1992.

The non-applicant Corporation in its reply denied paragraphs 1 to 15 and 18 to 23 of the claim application for want of knowledge. However, paragraphs

16 and 17 were not disputed, that is to say that it was admitted that the vehicle in question was on contract with the Corporation. The quantum of compensation claimed was disputed with the averments that the deceased was more than 32 years of age and was not earning Rs.1700/- per month and the deceased was weak and suffering from ailment and was not in a position to contribute Rs.1500/- per month to the family.

In relation to the question of liability, it was asserted that the non-applicant Corporation was not aware of the accident because neither the Corporation was owner of the vehicle nor the driver of the vehicle was in its employment; and that the liability for compensation was only of the non-applicants No.2 and 3 (owner and insurer) because the driver was driving the vehicle in the employment and under the instructions of the non-applicant No.2, and the vehicle was insured by the non-applicant No.3. In additional submissions, objections were taken to the effect that the driver, owner and insurer of the other vehicle HYT 2697 were not impleaded though necessary parties and, therefore, claim application was liable to be rejected; that the driver of the bus in question was not impleaded a party, and therefore also, the claim

application was liable to rejected; that the vehicle RJ 14A 0425 was driven in normal speed on its correct side and the vehicle running ahead suddenly put the brake resulting in the accident and there was no fault of the driver of the bus RJ 14A 0425; that the non-applicant No.2 was the owner of the bus and the driver Jorawar Singh was driving the vehicle at his instructions and the non-applicant No.3 had insured the vehicle, therefore, in case of compensation amount being payable, it was the liability of non-applicants No.2 and 3.

The insurer submitted a separate reply and while stating general denial of claim averments, denied the fact that the deceased was a conductor on the bus or that the accident occurred for rash and negligent driving of the vehicle. The insurer also stated the objections that the deceased had been shown to be a conductor with the Rajasthan State Road Transport Corporation and was travelling in the bus in that capacity and, therefore, the claim ought to have been maintained before the Workmen's Compensation Commissioner and not before the Tribunal. It was also asserted that the driver was driving the bus at the time of accident at the instructions and control of the Rajasthan State Road Transport

Corporation and the bus was being used for the Corporation, therefore, in case of any liability on account of the mistake or fault of the driver, the Corporation was liable to make payment of the entire amount of compensation and the insurer was not liable for any such compensation.

On the pleadings of the parties, the learned Tribunal framed the following issues for determination of the questions involved in the case:-

1. क्या प्रार्थीया मु. शकुंतला के पति, कंचन बाई के पुत्र तथा नितिन व भावना के पिता प्रकाश की मृत्यु विपक्षी सं. 2 के स्वामित्व की, विपक्षी सं. एक के पास अनुबंधित व विपक्षी सं. 3 के पास बीमित बस नंबर आर.जे. 14 ए/0425 को उसके चालक द्वारा उतावलेपन व लापरवाही से चलाये जाने के कारण हुई ?

....प्रार्थीगण

2. क्या विपक्षी सं. एक बस का पंजीकृत स्वामी नहीं था और न उसका चालक उसका वेतनभोगी कर्मचारी था, अत: उसका कोई दायित्व नहीं है ?

..विपक्षी सं. एक

3. क्या इस दुर्घटना में योग देने वाले ट्रक के मालिक, चालक व बीमा कंपनी आवश्यक पक्षकार है ?

..विपक्षी सं. एक

4. क्या बस का चालक विपक्षी सं. एक के निर्देशन में बस को चला रहा था, अत: संपूर्ण उत्तरदायित्व विपक्षी सं. एक का है ?

.....विपक्षी सं. 3

5. क्या प्रार्थीगण विपक्षीगण से या किस विपक्षी से क्षतिपूर्ति के रूप में 13,00000 रू. या अन्य कोई राशि प्राप्त करने के हकदार है ?

....प्रार्थीगण

6. अनुतोष ?

In oral evidence, the claimants examined AW-1 Shakuntala and AW-2 Mumtaj Khan whereas the non-applicant examined NAW-1 G.P. Saxena. In documentary evidence, the claimants produced salary certificate Ex.1, charge-sheet Ex.2, site plan Ex.3, postmortem report Ex.4, driving licence Ex.5 and payment certificate Ex.6 whereas the non-applicants produced the agreement executed between the Corporation and the owner of the vehicle as Ex.D/1.

Learned Judge of the Tribunal, after hearing the parties and examining the material produced on record, found that the accident was caused by the driver of the bus hitting the truck from behind on a 20 ft. wide

road and the victim had died for the injuries sustained in the accident and issue No.1 was, therefore ,decided in favour of the claimants. Taking up issue No.3, the learned Judge found that it was not shown as to how the truck driver, owner and insurer were necessary parties and issue No.3, therefore, was decided against the non-applicant No.1. Taking up issues No.2 and 4 together, the learned Judge found that admittedly the registered owner of the bus was M/s. Ram Narayan Devendra Kumar and the bus was on contract with the Corporation; and its driver was employee of the registered owner but was driving the bus under the instructions of the non-applicant No.1, Corporation. The learned Judge referred to various decided cases in relation to the liability in such a case, and held that the the non-applicant No.1 Corporation was jointly and severally liable for compensation with the registered owner of the bus.

For quantification of compensation, the learned Judge took the age of deceased at 32 years and his income at Rs.1580/- per month and then deducted Rs.780/- (i.e. nearly 50%) for his personal expenditure and took only Rs.800/- per month dependency for the claimants and then referred to the admission of the

claimant Shakuntala that the Corporation has provided her with employment and also provided Rs.40,000/- as compensation and in that view of the matter, adopted a multiplier of 13 only and, accordingly, assessed pecuniary loss at Rs.1,24,800/-; the claimants were allowed Rs.5,000/- each towards non-pecuniary losses and Rs.1200/- towards funeral expenses and, therefore, the Tribunal made an award of Rs.1,46,000/- and further allowed interest at the rate of 12% per annum. In apportionment, 50% of the award amount was allowed to the claimant wife of the deceased and remaining 50% to be distributed equally in the children and mother of the deceased.

Assailing the award aforesaid, the claimants of claim case No.677/1992 without joining the other claimant Smt. Kanchan Bai, mother of the deceased, as a party to the appeal have claimed enhancement of the amount of award with the submissions that the award made by the Tribunal remains too low and inadequate and has not been made on relevant principles. The non-applicant No.1 Corporation, on the other hand, has assailed the award with the submissions that there was no evidence available on record to establish that the accident was caused due to

rash and negligent driving on the part of the driver of the bus and in any case it was at least a matter of composite negligence and the entire liability could not have been fastened on the driver of the bus. It has further been contended that the agreement between the appellant Corporation and the registered owner of the bus makes it clear that the owner of the bus had taken upon himself the entire liability for the accident and, therefore, the said owner of the bus and the insurer were liable for payment of compensation and not the Corporation. The quantum of compensation has also been assailed being highly excessive.

From the rival stands basically three questions arise for determination in these appeals:-

(1) Whether the Tribunal has erred in finding the driver of the bus to be responsible for causing the accident;

(2) Whether the liability for compensation has rightly been fastened on the appellant Corporation;

(3) Whether the amount of compensation remains too low as asserted by the claimants or is highly excessive as alleged by the Corporation?

Taking up the question of negligence and liability towards accident, having regard to the facts and circumstances of the case, this Court is satisfied that the accident was caused for the negligence and fault of the bus driver and the Tribunal has not erred in its findings on issue No.1.

No eye-witness to the accident was produced by either of the parties and in such circumstances the Tribunal was required to draw legitimate inferences from the material as placed on record, and as omitted to be placed. The non-applicants have chosen not to produce the relevant witnesses related to the incident and the nearest account of the situation at site has come from claimants' witness AW-2 Mumtaj Khan. The said witness was also employed as a conductor at Doongarpur Depot of the appellant-Corporation and was tavelling (not on-duty) in a bus coming from Jaipur. He has stated that when his bus reached the site, the accident had already occurred but the truck was found standing on its side down the road and that the accident was caused for the mistake of driver of the bus; and that there was sufficient space available for passage of the bus. Such being the only statement

available on record, in the context of the question involved, the site plan Ex.3 assumes importance. It is noticed from the site plan Ex.3 that the truck HYT 2697 was standing on jack and the bus in question rammed into it despite having 24 ft. wide road and enough space available to negotiate the truck. In view of the evidence available on record, it is apparent that feeble suggestions made in the reply by the appellant-Corporation that the bus was driven in normal speed and the vehicle running ahead suddenly put the breaks that resulted in accident, are not correct as the other vehicle was not running but was standing on a jack.

In the overall circumstances of the case, learned Judge of the Tribunal has not committed any illegality in finding that the accident occurred for rash and negligent driving, with omission to take reasonable care, by the driver of the bus. Even if it be assumed that there was some mistake on the part of the truck driver while positioning the truck on the road, it would still be a case of composite negligence in the context of the deceased and, therefore, the claimants are entitled to recover compensation from the persons concerned with both or any of the vehicles. Viewed from any angle, the responsibility of the bus driver being apparent, the claim application has

rightly been maintained against the non-applicants and there is no error in the findings on issue No.1 against the non-applicants.

On the second question about fastening of liability, it has been vehemently pressed on behalf of the appellant Corporation that the Corporation had hired the vehicle that was owned by the non-applicant No.2 and the driver was employed by the owner of the vehicle and he was plying the vehicle under the control of its owner and in view of the agreement between the Corporation and the owner of the vehicle, the liability to make payment of compensation would only be of the owner of the vehicle and not of the Corporation; and consequently, the award could have been made only against the owner and the insurer of the vehicle and the Corporation ought to have been exonerated. The contentions sought to be raised on behalf of the appellant Corporation cannot be countenanced.

It is not in dispute that the bus in question was hired and plied by the appellant-Corporation on a route the appellant was entitled to ply the vehicles. It is also not in dispute that that conductor of the bus was an

employee of Corporation (It may be clarified that the deceased, although employed as a conductor with the appellant, was not travelling on-duty and Mumtaj Khan AW-2 has given the name of bus conductor on-duty as Shubh Singh); that the passengers were carried in the bus on paying prescribed fare to the appellant-Corporation; and that the bus was given on hire to the appellant-Corporation alongwith driver who was to ply the bus under the instructions of the Corporation. The conditions as discernible from the photostat of the agreement (Ex.D/1) entered into between the Corporation and the registered owner of the bus show that the driver of the bus was required to follow such instructions of the conductor which were necessary under the rules for operation of the bus; and that the driver and owner of the bus were required to comply with all the orders of the Corporation and its officers. The agreement further provided that the owner shall be answerable for the liabilities to the passengers and the Corporation would not be liable for any accident and if required to make any payment in the court, the Corporation would be able to recover such amount from the owner of the bus after deducting the same from monthly payments to be made to the owner.

The definition of "owner" as available in Section 2(30) of the Act of 1988 reads as under:-

> "2. Definitions.- In this Act, unless the context otherwise requires,-
> .....
> .....
> (30) "owner" means a person in whose name a motor vehicle stands registered, and where such person is a minor, the guardian of such minor, and in relation to a motor vehicle which is the subject of a hire-purchase, agreement, or an agreement of lease or an agreement of hypothecation, the person in possession of the vehicle under that agreement;"

It may be pointed out that the earlier definition of "owner" in Section 2(19) of the Act of 1939 read as under:-

> "2. Definitions.- In this Act, unless there is anything repugnant in the subject or context,-
> .....
> .....
> (19) "owner" means, where the person in possession of a motor vehicle is a minor, the guardian of such minor, and in relation to a motor vehicle which is the subject of a hire purchase agreement, the person in possession of the vehicle under that agreement;"

With reference to the aforesaid definition of "owner" in Section 2(19) of the Act of 1939, the Hon'ble Supreme Court in the case of Rajasthan State Road Transport Corporation Vs. Kailash Nath Kothari : AIR 1997 SC 3444, while dealing with a similar nature contract, where vehicle was hired by the Corporation from its registered owner, observed,-

> "16. The admitted facts unmistakably show that the vehicle in question was in possession and under the actual control of RSRTC for the purpose of running on the specified route and was being used for carrying, on hire, passengers by the RSRTC. The driver, was to carry out instructions, orders and directions of the conductor and other officers of the RSRTC for operation of the bus on the route specified by the RSRTC."

After considering the facts and the law applicable, the Hon'ble Supreme Court held,-

> "The general proposition of law and the presumption arising therefrom that an employer, that is the person who has the right to hire and fire the employee, is generally responsible vicariously for the tort committed by the concerned employee during the course of his employment and within the scope of his authority, is a rebuttable presumption. If the original employer is able to establish that when the

> servant was lent, the effective control over him was also transferred to the hirer, the original owner can avoid his liability and the temporary employer or the hirer, as the case may be, must be held vicariously liable for the tort committed by the concerned employee in the course of his employment while under the command and control of the hirer notwithstanding the fact that the driver would continue to be on the pay roll of the original owner. The proposition based on the general principle as noticed above is adequately rebutted in this case not only on the basis of the evidence led by the parties but also on the basis of conditions 6 and 7 (supra), which go to show that the owner had not merely transferred the services of the driver to the RSRTC but actual control and the driver was to act under the instructions, control and command of the conductor and other officers of the RSRTC."
>
> (emphasis supplied)

It may be noticed that though the decision in Kailash Nath Kothari's case (supra) was rendered by the Hon'ble Supreme Court in relation to the definition of 'owner' as contained in Section 2 (19) of the Motor Vehicles Act, 1939, however,for the purpose of the present case and for the purpose of Section 2(30) of the Motor Vehicles Act, 1988, the facts and factors taken into consideration by the Hon'ble Supreme Court would directly apply inasmuch as, the vehicle herein was also lent by the registered owner to the Corporation under an agreement and the Corporation was in possession and effective

control of the vehicle; the services of the driver were also exclusively transferred along with complete control of the Corporation; and the passengers were being carried by Corporation on receiving fare from them. The driver of the bus, even though an employee of the owner, was at the relevant time performing his duties under the order and command of the conductor of Corporation and the passengers including the deceased had their privity of contract only with Corporation and, therefore, their safety became the responsibility of the Corporation and as ruled by the Hon'ble Supreme Court, the Corporation must be held vicariously liable for the tort committed by the driver while plying the bus under its control.

It may also be noticed that such clause in the agreement, as relied upon in the present case also, of the Corporation shifting the liability for the accident to the owner, has been opined by a Division Bench of this Court being against public policy and the Hon'ble Supreme Court has not found such opinion of the Division Bench to be incorrect although not finally pronouncing on the same.

Considering the decision of the Hon'ble Supreme Court in Kailash Nath Kothari (supra), in another

D.B. Civil Special Appeal No.150/2003: RSRTC & Anr. Vs. Naseer Khan & Ors., a Division Bench of this Court has held on 24.05.2005,-

> "Thus, the view taken by this High Court that RSRTC cannot escape its liability to pay compensation has been affirmed by the Hon'ble Supreme Court. Since, the Division Bench decision was not reversed by the Hon'ble Supreme Court, the same is binding as far as this Court is concerned and if the condition shifting the liability of the Corporation to the owner is held to be invalid, there cannot be any enforcement of such contract in these proceedings."

In view of the decision of the Hon'ble Supreme Court and that of the Division Bench of this Court, the finding of the Tribunal on issues No.2 and 4 deserve to be affirmed; the Corporation has rightly been held liable for payment of the amount of compensation in the present case.

Coming to the question of quantum of compensation, this Court is of opinion that deduction of 50% of the salary income towards personal expenditure of the deceased does not appear to be justified in the fact situation of the present case and to that extent the award

requires modification on application of relevant principles.

Learned counsel for the appellant has of course, relied on the decisions of this Court in Smt.Kalli @ Kalyani & others Vs. Indra Raj Bairwa and others : 2004 WLC (Raj.) UC 789 and Smt.Chail Kanwar & others Vs. Bohad Singh & others : 2003 R.A.R. 5 for the submissions that future prospects ought to have been taken into consideration; however, in the fact situation of the present case, this Court is of opinion that no enhancement towards future prospects could be allowed.

The deceased was 32 years of age and was in settled employment as conductor with the appellant-Corporation. Ordinarily, future prospects of enhancement of income could have been taken into consideration; but there are other factors, as noticed hereafter, for which reasonable deduction would be required to be made to set off the benefits received by the claimants in order to arrive at the figure of just compensation in this case.

The claimant AW-1 Shakuntala has admitted in her statement that the appellant-Corporation has provided her with employment in place of her husband and

she was working on daily wages. The claimant further admitted having received Rs.40,000/- as compensation from the Corporation; but such aspect of compensation as occurring in her statement made on 02.04.1994 has been later on corrected by her on 31.01.1995 by placing on record a certificate dated 16.11.1994 as Ex.6, showing that the said amount of Rs.40,000/- was inclusive of the amount of CPF, EPF and joint insurance.

Although no other defence was put forward before the Tribunal by the appellant-Corporation in its reply so as to suggest disentitlement of the claimants to maintain the claim application, however, for assessment of the amount of just compensation payable to the claimants, the fact that the wife of the deceased has been afforded with an employment on compassionate grounds is required to be taken note of; and the resultant benefit is required to be deducted from the amount of compensation applying general principles that the pecuniary loss is required to be ascertained only by balancing on one hand the loss to the claimants of the future pecuniary benefit and on the other hand, any pecuniary advantage which comes to them by reason of the death and arriving at a balance of losses and gains. What is deducted is the

benefit received or amount payable on account of death as distinguished from the amount payable at the time of death.

Having regard to the circumstances of the case, although no deduction is made for the amount said to have been paid as shown by the certificate Ex.6, but the employment afforded by the appellant-Corporation to the wife of the deceased deserves to be accounted for and in that view of the matter, the Tribunal cannot be said to have erred in applying a lower side multiplier of 13 because going by the Second Schedule to the Act of 1988 and applying a multiplier of 17 would not be leading to a figure of just compensation payable in the fact situation of the present case; and in that very view of the matter, it does not appear appropriate to provide for enhancement towards future prospects of the deceased in the present case. However, when the static figure of the last drawn salary of the deceased of Rs.1580/- is adopted and lower side multiplier of 13 is applied, yet deducting 50% from his income, in the opinion of this Court, would be leading to a wholly unjust result and would be depriving the claimants of just and reasonable compensation beyond reasonable

setting off the benefits received by them. Therefore, to this extent, the impugned awards calls for modification.

In the aforesaid view of the matter, this Court is of opinion that for the purpose of arriving at a just compensation in this case, only 1/3rd of the last drawn salary of Rs.1580/- ought to be deducted towards personal expenditure of the deceased leading to an average monthly contribution of Rs.1054/- and thereby leading to a multiplicand of Rs.12,648/- per annum and applying a multiplier of 13, the pecuniary loss comes at Rs.1,64,424/-, rounded up to Rs.1,64,500/-. Retaining non-pecuniary compensation at Rs.20,000/- and providing funeral expenses at Rs.1,500/-, the claimants are held entitled to an amount of Rs.1,86,000/- as against Rs.1,46,000/- awarded by the Tribunal and would, therefore, be entitled to a further amount of Rs.40,000/-.

Although a submission has also been made by the appellant-Corporation of the rate of interest at 12% per annum being excessive, this Court is of opinion that in the award made in the year 1995, such rate of interest cannot be held to be highly excessive and in view of comparatively lower side enhancement being made in the

amount of award, it is considered appropriate to retain the rate of interest awarded by the Tribunal.

As noticed hereinbefore, two claim applications were submitted seeking compensation on account of death of Prakash Chandra Priya, one by his wife and children, and another by his mother; and both were consolidated and decided together by the impugned award dated 23.11.1995. While the appellants of the Corporation in CMA No.317/1996 have joined all the claimants including the mother of the deceased as respondents; but the wife and children of the deceased while maintaining their CMA No.140/1996 have chosen not to implead the mother of the deceased, another claimant, as a party to their appeal. During the course of submissions, it was given out that the mother of the deceased could be joined as a party in the appeal submitted by the claimants and the decisions of the Hon'ble Allahabad High Court in National Insurance Company Vs. Jai Prakash : 2004 (II) ACC 677 and of the Hon'ble Madhya Pradesh High Court in Manik Lal Vs. Mohd. Ismail : 1998 ACJ 888 were referred.

Having regard to the circumstances of the case and the composite award made by the Tribunal, it is made

clear that the enhancement ordered herein would enure to the benefit of all the four claimants including the applicant of claim application No.720/1992; and, of course, the award amount would be distributed amongst the four claimants in the same proportion as ordered by the Tribunal in the impugned award. The Tribunal having not made any order regarding term deposit and cash payments in the impugned award, it shall be required of the Tribunal to make appropriate orders in that regard on the amount being deposited by the Corporation.

As a result of the aforesaid:

(i) CMA No. 317/1996 : RSRTC Vs. Smt. Shakuntala stands dismissed;

(ii) CMA No.140/1996 : Smt. Shakuntala Priya Vs. RSRTC stands partly allowed with the stipulation that the claimant of Claim Application No.720/1992 shall be deemed to be included as appellant-claimant in this appeal; and the claimants shall be entitled to a further amount of Rs.40,000/- with interest at

the rate of 12% per annum from the date of filing of the first claim application, i.e. 29.10.1991.

(iii) The amount payable under the modified award, after adjustment of the amount already paid, shall be deposited by the appellant Rajasthan State Road Transport Corporation within thirty days from today with the Motor Accidents Claims Tribunal, Bhilwara and it shall be required of the Tribunal to carry out apportionment of the amount of award and to issue necessary directions for term deposit/cash payment.

(iv) In the circumstances of the case, the parties are left to bear their own costs of these appeals.

(DINESH MAHESHWARI), J.

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